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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,243	12/07/2000	Steven James Frisken	U013097-8	9498

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Ladas & Parry
26 West 61st Street
New York, NY 10023

EXAMINER

CURTIS, CRAIG

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/732,243

Applicant(s)

FRISKEN et al.

Examiner

Craig Curtis

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 14, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-13 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Disposition of the Instant Application

- This Office action is responsive to Applicants' Amendment A filed on 14 April 2003 and made of record in the file as Paper No. 10.
- By this amendment, Applicants have canceled claim 6 without prejudice and amended claims 1, 7, and 13 (the previously recited phrase "*a birefringent material for, in use, splitting the optical signal into two orthogonal polarisation component signals....*" having been amended to read as follows: "*a birefringent element consisting of a single birefringent material for, in use, splitting the optical signal into two orthogonal polarisation component signals....*").
- Claims 1-5 and 7-13 currently are pending in the instant application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- I. Claims 1-5 and 7-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Kurata et al. (5,574,595).

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Kurata et al. disclose the claimed invention: an optical device and method for producing a polarisation rotation of an optical signal, the device, arrived at via the implementation of said method, comprising:

a birefringent element consisting of a single birefringent material (Fig. 7, birefringent material 27: col. 10, ll. 16-17) for, in use, splitting the optical signal into two orthogonal polarisation component signals (See Fig. 7; col. 10, ll. 50-54);

a polarisation rotating means (Fig. 7, magnetooptic plate 10: col. 10, ll. 57-62) for, in use, rotating each polarisation component signal by a predetermined amount (Id. at ll. 59-62), and wherein the device is arranged in a manner such that, in use, the two rotated polarisation component signals are being combined by way of the birefringent material for providing the predetermined polarisation rotated optical signal (see Fig. 7; esp. rays 51 & 52 combined in said birefringent element consisting of a single birefringent material, viz. element 27);

wherein said polarisation rotation is by 90 degrees (following two passes through the polarisation rotating means--i.e., magnetooptic plate 10);

wherein the polarisation rotating means comprises a nominally 45° Faraday rotator and an optical circuit arranged in a manner such that, in use, the polarisation component signals are being transmitted twice through the nominally 45° Faraday rotator (See col. 10, ll. 57-62 & col. 11, ll. 26-28);

wherein the optical circuit comprises a lens and a reflective element (Fig. 7, elements 13 and 30, respectively);

wherein the birefringent material comprises rutile (col. 5, ll. 19-23);

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with regard to claim 13, please see the abstract, the device recitations having been met as set forth above.

Response to Arguments

2. Applicants' arguments filed 14 April 2003 have been fully considered but they are not persuasive.

Applicants initially argue that, as amended, independent claims 1, 7, and 13 of the instant invention distinguish over Kurata [et al.] because these claims presently recite that the birefringent element consists of a single birefringent material. Applicants next assert that Kurata [et al.] does not disclose or contemplate the use of a birefringent element consisting of a single birefringent material. And finally, Applicants assert that the Examiner had conceded to such supposed non-teaching by Kurata et al. in the previous Office action. The Examiner respectfully disagrees with each of these assertions.

Kurata et al. unambiguously disclose wherein birefringent element 27 (as well as every other birefringent element disclosed in the reference) consists of a single birefringent material (viz., a rutile plate *or* a crystal plate [not a rutile plate *and* a crystal plate]; col. 10, ll. 18-20, emphasis added). In no instance should this disjunctive teaching by Kurata et al. be construed conjunctively as suggesting that any birefringent element described in this reference consists of more than a single birefringent material, and the Examiner conceded no such thing in the previous Office action. The Examiner readily concedes that Kurata et al. do indeed disclose more than one birefringent *element* (e.g., at least elements 5, 6, 12, 27, 28, and 29), but this fact is wholly irrelevant to the issue raised by Applicants: namely, whether or not any *one* of these elements consists of *more than one* birefringent material.

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Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

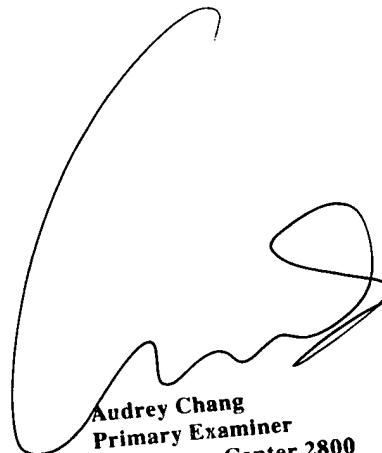
4. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig Curtis, whose telephone number is (703) 305-0776. The facsimile phone number for Art Unit 2872 is (703) 308-7722.

Any inquiry of a general nature regarding the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-0956.



Audrey Chang
Primary Examiner
Technology Center 2800

Craig H. Curtis
Craig H. Curtis
Group Art Unit 2872
17 June 2003